

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

SECURITIES AND EXCHANGE  
COMMISSION,

Case No. 3:22-cv-00269-ART-CSD

Plaintiff,

ORDER DENYING MOTION TO STAY  
(ECF No. 69)

v.

LORAL L. LANGEMEIER and LIVE  
OUT LOUD, INC.,

Defendants.

Defendants Loral L. Langemeier and Live Out Loud, Inc. (“LOL”) move for a stay of enforcement of judgment pending appeal. (ECF No. 69.) For the reasons set forth below, the Court denies Defendants’ motion without prejudice.

**I. DISCUSSION**

Defendants argue that they are entitled to a stay of judgment pending appeal pursuant to Rule 62 and under the four-factor test. *Mi Familia Vota v. Fontes*, 111 F.4th 976, 981 (9th Cir. 2024). The Court addresses each argument in turn.

**A. RULE 62**

Rule 62(b) provides that: “At any time after judgment is entered, a party may obtain a stay by providing a bond or other security. The stay takes effect when the court approves the bond or other security and remains in effect for the time specified in the bond or other security.” Fed. R. Civ. P. 62(b). A party appealing a judgment of a federal district court is entitled to a stay of monetary judgment if they post a bond in accordance with Rule 62. *Am. Mfrs. Mut. Ins. Co. v. Am. Broad.-Paramount Theatres, Inc.*, 87 S. Ct. 1, 3 (1966); *Am. Civ. Liberties Union of Nevada v. Masto*, 670 F.3d 1046, 1066 (9th Cir. 2012). “The posting of a bond protects the prevailing plaintiff from the risk of a later uncollectible

1 judgment and compensates him for delay in the entry of the final judgment.”  
2 *N.L.R.B. v. Westphal*, 859 F.2d 818, 819 (9th Cir. 1988).

3 In determining whether an appellant has met their burden of showing a  
4 need to deviate from the usual requirement of posting a full supersedeas bond,  
5 the Ninth Circuit considers a five-factor test. *Securities and Exch. Comm'n v.*  
6 *Beasley*, No. 222CV00612CDSEJY, 2024 WL 1199593, at \*2 (D. Nev. Mar. 19,  
7 2024); *Kranson v. Fed. Express Corp.*, No. 11-CV-05826-YGR, 2013 WL 6872495,  
8 at \*1 (N.D. Cal. Dec. 31, 2013) (discussing factors used in *Dillon v. City of Chicago*,  
9 866 F.2d 902, 904–05 (7th Cir. 1988)). The factors considered are: (1) the  
10 complexity of the collection process; (2) the amount of time required to obtain a  
11 judgment after it is affirmed on appeal; (3) the degree of confidence that the  
12 district court has in the availability of funds to pay the judgment; (4) whether the  
13 defendant’s ability to pay the judgment is so plain that the cost of a bond would  
14 be a waste of money; and (5) whether the defendant is in such a precarious  
15 financial situation that the requirement to post a bond would place other  
16 creditors of the defendant in an insecure position. *Dillon*, 866 F.2d at 904–05.

17 Although Defendants appear to request a stay pursuant to Rule 62, they  
18 have not made any argument as to why bond should not be required based on  
19 the *Dillon* factors. They have failed to present any evidence that would allow the  
20 Court to make a finding on Defendants’ ability to pay. The Court therefore denies  
21 Defendants’ request for a stay without payment of bond pursuant to Rule 62  
22 without prejudice.

## 23 **II. UNSECURED STAY PENDING APPEAL**

24 Defendants argue they are entitled to a stay pending appeal because they  
25 are likely to succeed on the merits and will suffer irreparable injury.

26 Courts consider four factors in deciding whether to grant a request for a  
27 stay pending appeal: “(1) whether the stay applicant has made a strong showing  
28 that [it] is likely to succeed on the merits; (2) whether the applicant will be

1 irreparably injured absent a stay; (3) whether issuance of the stay will  
2 substantially injure the other parties interested in the proceeding; and (4) where  
3 the public interest lies.” *Nken v. Holder*, 556 U.S. 418, 425–26 (2009) (citation  
4 omitted). The likelihood of success and irreparable injury are the most important  
5 factors. *Mi Familia Vota*, 111 F.4th at 981. In the Ninth Circuit, those two factors  
6 fall on a “sliding scale in which the required degree of irreparable harm increases  
7 as the probability of success decreases.” *Id.* “On one end of the continuum, the  
8 proponent must show a ‘strong likelihood of success on the merits’ and at least  
9 ‘the possibility of irreparable injury to the [proponent] if preliminary relief is not  
10 granted.’” *Id.* (citing *Golden Gate Rest. Ass’n v. City & Cnty of San Francisco*, 512  
11 F.3d 1112, 1116–17 (9th Cir. 2008)). At the other end of the continuum, the  
12 moving party must show either “a high degree of irreparable injury, or that the  
13 balance of equities otherwise tips sharply in their favor.” *Id.* (cleaned up).

#### 14 **A. Likelihood of Success on the Merits**

15 Defendants first argue they are likely to succeed on the merits on their  
16 appeal because the Court lacks jurisdiction over NV Huskers, a business entity  
17 that received payments on behalf of Langemeier and LOL, and because NV  
18 Huskers has limited liability company protections. (ECF No. 69 at 8.)

19 The Court’s order awarded disgorgement of \$404,807 based on  
20 transaction-based compensation that Defendants received during the relevant  
21 period. (ECF No. 59 at 7.) The Court explained that the SEC had met its burden  
22 of showing that the \$404,807 was a reasonable approximation of Defendants’  
23 profits causally connected to the violation based on evidence in the record  
24 including Langemeier’s deposition and an invoice confirming that the sum was  
25 paid to NV Huskers. (*Id.*)

26 This is the first time Defendants raise an argument related to limited  
27 liability protections of NV Huskers. In their briefing on the motion for judgment,  
28 Defendants argued only that the payments to Defendants, via NV Huskers, their

1 “designated payee,” should not be considered transaction-based compensation  
2 but instead legitimate “marketing fees.” (ECF No. 50 at 6, 7.) Any limited liability  
3 protections that NV Huskers may have do not affect the Court’s finding that  
4 Defendants in this case, Langemeier and SEC, received profits causally connected  
5 to the violations.

6 Defendants next argue that the Court’s disgorgement order was “illegal”  
7 because the SEC did not sufficiently prove that the amount awarded represented  
8 Defendants’ net profits or that the disgorgement awarded would go to victims,  
9 citing *Liu v. Sec. & Exch. Comm’n*, 591 U.S. 71 (2020).

10 First, the record supports the Court’s finding that the amount awarded,  
11 \$404,807, represented Defendants’ net profits. In *Liu*, the Court held that “courts  
12 must deduct legitimate expenses before ordering disgorgement under  
13 § 78u(d)(5).” *Id.* at 91–92. In this case, Defendants failed to make any showing of  
14 legitimate expenses, therefore the Court was unable to deduct anything. As such,  
15 total profits were the same as net profits.

16 Second, the Court agrees with Defendants that the disgorgement ordered  
17 must be awarded to victims. *Liu*, 591 U.S. at 75. “Disgorgement is designed to  
18 deprive a wrongdoer of unjust enrichment, and to deter others from violating  
19 securities laws by making violations unprofitable.” *S.E.C. v. First Pac. Bancorp*,  
20 142 F.3d 1186, 1191 (9th Cir. 1998). The Court retains jurisdiction over the  
21 administration of any funds paid by Defendants, and those funds may only be  
22 disbursed pursuant to an order by the Court. (ECF No. 64 at 5.) Defendants cite  
23 no authority for their argument that the SEC was required to submit evidence as  
24 to what victims would receive those funds in its motion for judgment.

25 Because Defendants have failed to show a likelihood of success, the Court  
26 declines to address the remaining factors and denies the motion for a stay of  
27 judgment.

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**III. ALTERNATIVE REQUEST FOR SUPERSEDEAS BOND**

At the end of their reply, Defendants request in the alternative that the Court set a supersedeas bond which is “limited to 12 months interest on the judgment at the current federal reserve interest rate of 4.33%.” (ECF No. 73 at 9.) Because this request was not made initially, it has not been fully briefed. Defendants may renew their request with appropriate authority and argument.

**IV. CONCLUSION**

It is therefore ordered that Defendants’ motion to stay the enforcement of judgment without a supersedeas bond (ECF No. 69) is DENIED without prejudice.

It is further ordered that Defendants’ motion for an extension of time (ECF No. 72), requesting an additional day to file their reply, is GRANTED nunc pro tunc.

DATED: July 24, 2025



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ANNE R. TRAUM  
UNITED STATES DISTRICT JUDGE